

REMARKS

Reconsideration of the Office Action of August 7, 2006 respectfully is requested. This amendment is timely filed. No additional claim fees are required.

I. Amendments

Claims 14-16 have been cancelled.

Claim 1 has been amended to recite that the output power level for the transmission signal is set responsive to user input to facilitate transmission. Claim 8 has been amended to further define the voltage regulator. Claim 16 has been amended to recite a transmitting means and to further define the attenuating means. Claim 19 was amended to correct a typographical error. New claim 20 further defines the invention recited in claim 16. New claim 21 is based on claim 10.

Claims 1-13 and 17-21 are pending in this patent application.

II. Double Patenting Rejections

a. U.S. Pat. No. 6,681,100

Claims 1-5, 16, 18, and 19 have been rejected provisionally under the judicially created doctrine of obviousness-type double patenting over claims 1-19 of U.S. Pat. No. 6,681,100. This rejection respectfully is traversed.

The Office Action fails to explain how these claims are obvious in view of all 19 claims that issued in U.S. Pat. No. 6,681,100. For example, there is no explanation as to why it would be obvious to remove the mathematical claims recited in claims 7, 10, and 16 in U.S. Pat. No. 6,681,100 to obtain claims 1-5, 16, 18, and 19. Applicant respectfully requests a *prima facie* case be offered as to the basis for this rejection, and

without that withdrawal of the rejection.

b. U.S. Pat. No. 6,681,100 in view of Gillespie

Claims 6 and 17 have been rejected provisionally under the judicially created doctrine of obviousness-type double patenting over claims 1-19 of U.S. Pat. No. 6,681,100 in view of Gillespie (U.S. Pat. No. 4,399,416). This rejection respectfully is traversed.

The Office Action fails to explain how these claims are obvious in view of all 19 claims that issued in U.S. Pat. No. 6,681,100. Applicant respectfully requests a *prima facie* case be offered as to the basis for this rejection, and without that withdrawal of the rejection.

c. U.S. Pat. No. 6,681,100 in view of Tsurumaki

Claims 8, 9, 13, and 14 have been rejected provisionally under the judicially created doctrine of obviousness-type double patenting over claims 1-19 of U.S. Pat. No. 6,681,100 in view of Tsurumaki (U.S. Pat. No. 5,345,591). This rejection respectfully is traversed with respect to claims 8 and 9, and is submitted as being moot with respect to cancelled claims 13 and 14.

The Office Action fails to explain how claims 8 and 9 are obvious in view of all 19 claims that issued in U.S. Pat. No. 6,681,100. Applicant respectfully requests a *prima facie* case be offered as to the basis for this rejection.

Applicant respectfully requests withdrawal of this rejection.

d. U.S. Pat. No. 6,681,100 in view of Tsurumaki and Yuzawa

Claim 15 has been rejected provisionally under the judicially created doctrine of

obviousness-type double patenting over claims 1-19 of U.S. Pat. No. 6,681,100 in view of Tsurumaki as applied to claim 13 and further in view of Yuzawa (U.S. Pat. No. 5,345,591). This rejection respectfully is submitted as moot, because claim 15 has been cancelled.

III. 35 U.S.C. §102 Rejections

a. 35 U.S.C. §102(b) - Barakat

Claims 1-3 and 5 have been rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Barakat (U.S. Pat. No. 6,363,241). This rejection respectfully is traversed.

35 U.S.C. §102(b) requires that the document have been published more than one year prior to the filing of the patent application and/or its earliest priority date.

Barakat issued on March 26, 2002 as a patent. There was no prior publication of the patent application. The provisional patent application from which priority is claimed for the present patent application was filed on January 10, 2003, which is less than one year after Barakat issued.

Therefore, this rejection is improper because Barakat does not satisfy the requirements of 35 U.S.C. §102(b). It respectfully is requested that this rejection be withdrawn.

b. 35 U.S.C. §102(b) - Tsurumaki

Claims 13 and 14 have been rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Tsurumaki. This rejection is moot with the cancellation of claims 13 and 14.

IV. 35 U.S.C. §103 Rejections

a. Barakat in view of Young

Claims 4, 16, 18, and 19 have been rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Barakat in view of Young (U.S. Pat. Pub. No. 2003/0104780). This rejection respectfully is traversed.

Claim 4 depends from claim 1, which recites an amplifier that produces “a desired output power level for the transmission signal set responsive to user input to facilitate transmission.” Barakat teaches a device that turns “off the transceiver when it is not in its transmit mode. In response to this recognition, a muting system is introduced into the CPEs 22 of FIG. 1.” Barakat, col. 4, lines 23-27. This setup prevents accumulation of noise at the communication hub that is connected to multiple CPEs. Barakat, col. 4, lines 11-27. Therefore, the muting system 54 turns off the amplifiers. See, e.g., Barakat, col. 7, lines 39-44. Thus, no transmission is facilitated when a signal is provided by the muting system 54.

As the Office Action recognizes, based on the combination being made, Young does not teach this feature either. This feature recited in claim 1 without some teaching can not be taught or suggested by a combination of Barakat and Young.

Claim 16 recites “a means for attenuating the transmit signal based in part on the control signal to produce a transmit signal with the output power level desired” and “a means for transmitting the transmit signal.” Barakat teaches modification of the amplification by the muting system 54 only when there is nothing to be transmitted, which means there is no modification of the signal meant to be transmitted.

As the Office Action recognizes, based on the combination being made, Young does not teach this feature either. This feature recited in claim 16 without some teaching can not be taught or suggested by a combination of Barakat and Young. Claims 18 and 19 are likewise patentable based on their dependency from claim 16. 35 U.S.C. §112, fourth paragraph.

In addition, Young teaches away from the need for the device of Barakat, because the default position of the Young bi-directional amplifier is in the receive mode, i.e., the transmit mode is off. Young, paragraph [0016]. If the default position is in the receive mode, then there is no noise being broadcasted by the device to the communication hub. Therefore, there is no reason to make the proposed combination of Barakat and Young.

Applicant respectfully requests that this rejection be withdrawn.

b. Barakat in view of Gillespie

Claims 6 and 7 have been rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Barakat in view of Gillespie. This rejection respectfully is traversed.

Claims 6 and 7 depend from claim 1, which recites an amplifier that produces “a desired output power level for the transmission signal set responsive to user input to facilitate transmission.” As discussed above, Barakat does not teach or suggest this aspect. Gillespie is silent on this aspect also, and is directed at a floating point amplifier. This feature recited in claim 1 without some teaching can not be taught or suggested by a combination of Barakat and Gillespie.

Applicant respectfully requests withdrawal of this rejection.

c. Barakat in view of Tsurumaki

Claims 8 and 9 have been rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Barakat in view of Tsurumaki. This rejection respectfully is traversed.

Claims 8 and 9 depend from claim 1, which recites an amplifier that produces "a desired output power level for the transmission signal set responsive to user input to facilitate transmission." As discussed above, Barakat does not teach or suggest this aspect. Tsurumaki is silent on this aspect also, and is directed at a receiving satellite switching apparatus. This feature recited in claim 1 without some teaching can not be taught or suggested by a combination of Barakat and Tsurumaki.

In addition claim 8 recites that the "voltage regulator has a plurality of selectable output power levels for setting the output power level for the transmission signal." As the Office Action recognizes, this aspect is not taught by Barakat. As Tsurumaki is directed at a satellite reception device, it does not teach or suggest anything regarding transmission.

Therefore, claims 8 and 9 are patentable over the proposed combination of Barakat and Tsurumaki.

Applicant respectfully requests withdrawal of this rejection.

d. Tsurumaki in view of Yuzawa

Claim 15 has been rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Tsurumaki in view of Yuzawa. This rejection is moot with the cancellation of claim 15.

e. Barakat in view of Young in view of Gillespie

Claim 17 has been rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Barakat in view of Young further in view of Gillespie. This rejection respectfully is traversed.

As discussed above, claim 16, from which claim 17 depends, is patentable over the improper combination of Barakat and Young. Gillespie does not teach or suggest the aspects of claim 16 discussed above, therefore a combination of Barakat, Young, and Gillespie is unable to teach or suggest those aspects because none of these patents teach or suggest the recited aspects.

V. Conclusion

Applicant acknowledges the Examiner's allowance of claims 10-13.

In view of the above Remarks, it courteously is urged that all the claims are allowable and that the application now is in condition for allowance. If the Examiner believes that the prosecution could be advanced through a telephone conversation, then the Examiner is invited to telephone the undersigned. Favorable action in this regard earnestly is solicited.

Respectfully submitted,
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